

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

LEIGH-DAVIS GLASS,)
)
Plaintiff,)
)
v.)
)
SCOTTRADE, INC.,)
)
Defendant.)

MEMORANDUM AND ORDER

This matter is before the Court upon the motion of plaintiff (registration no. 24821-112), an inmate at Victorville Federal Correctional Institution in Adelanto, California, for leave to commence this action without payment of the required filing fee. For the reasons stated below, the Court finds that plaintiff does not have sufficient funds to pay the entire filing fee and will assess an initial partial filing fee of \$3.47. See 28 U.S.C. § 1915(b)(1). Further, after reviewing the complaint, the Court will order the Clerk to issue process or cause process to be issued on the complaint.

28 U.S.C. § 1915(b)(1)

Pursuant to 28 U.S.C. § 1915(b)(1), a prisoner bringing a civil action in forma pauperis is required to pay the full amount of the filing fee. If the prisoner has insufficient funds in his or her prison account to pay the entire fee, the Court must assess and, when funds exist, collect an initial partial filing fee of 20 percent of the greater of (1) the average monthly deposits in the prisoner's account, or (2) the average monthly balance in the prisoner's account for the prior six-month period. After payment of the initial partial filing fee, the prisoner is required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account. 28 U.S.C.

§ 1915(b)(2). The agency having custody of the prisoner will forward these monthly payments to the Clerk of Court each time the amount in the prisoner's account exceeds \$10, until the filing fee is fully paid. *Id.*

Plaintiff has submitted an affidavit and a certified copy of her prison account statement for the six-month period immediately preceding the submission of her complaint. A review of plaintiff's account indicates an average monthly deposit of \$11.61, and an average monthly balance of \$17.37. Plaintiff has insufficient funds to pay the entire filing fee. Accordingly, the Court will assess an initial partial filing fee of \$3.47, which is 20 percent of plaintiff's average monthly balance.

The Complaint

Plaintiff alleges that defendant, Scottrade, Inc., illegally confiscated funds remaining in her brokerage accounts, totaling over \$100,000. Because plaintiff's allegations survive initial review, the Court will grant plaintiff's motion to proceed in forma pauperis and order the Clerk of the Court to effectuate service of the complaint on defendant.

Accordingly,

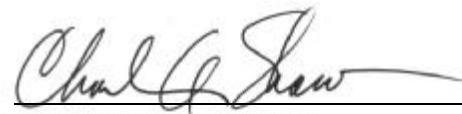
IT IS HEREBY ORDERED that plaintiff's motion to proceed in forma pauperis is **GRANTED**. [Doc. 2]

IT IS FURTHER ORDERED that the plaintiff shall pay an initial filing fee of \$3.47 within thirty (30) days of the date of this Order. Plaintiff is instructed to make her remittance payable to "Clerk, United States District Court," and to include upon it: (1) her name; (2) her prison registration number; (3) the case number; and (4) that the remittance is for an original proceeding.

IT IS FURTHER ORDERED that if plaintiff fails to pay the initial partial filing fee within thirty (30) days of the date of this Order, then this case will be dismissed without prejudice.

IT IS FURTHER ORDERED that the Clerk shall issue process or cause process to issue upon the complaint by serving defendant's registered agent, Mr. Rodger O. Riney, at 12855 Flushing Meadows, Suite 100, St. Louis, Missouri 63131.

IT IS FURTHER ORDERED that, pursuant to 42 U.S.C. § 1997e(g)(2), defendant shall file a response to plaintiff's complaint within the time provided by the applicable provisions of Rule 12(a) of the Federal Rules of Civil Procedure.



CHARLES A. SHAW
UNITED STATES DISTRICT JUDGE

Dated this 21st day of May, 2008.